



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Marc E. Elias
Jonathan S. Berkon
Elizabeth P. Poston
Perkins Coie
700 13th Street NW, Suite 600
Washington, D.C. 20003

FEB 08 2019

RE: MUR 7345

Dear Messrs. Elias and Berkon and Ms. Poston:

On March 14, 2018, the Federal Election Commission notified your clients, Friends of Gina Raimondo and the Providence Democratic City Committee and Patrick Ward as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended, and its implementing regulations. On February 5, 2019, the Commission found, on the basis of the information in the complaint, that there is no reason to believe that your clients violated 11 C.F.R. § 102.17. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran".

Lynn Y. Tran
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Providence Democratic City Committee MUR 7345
Friends of Gina Raimondo

I. INTRODUCTION

The Complaint alleges that a local party committee, the Providence Democratic City Committee ("PDCC"), and a gubernatorial candidate's committee, Friends of Gina Raimondo ("Raimondo Committee"), violated Commission regulations by entering into a joint fundraising agreement without complying with the requirements of 11 C.F.R. § 102.17. Based on the available information, it does not appear that Respondents engaged in any joint fundraising activity subject to the Commission's joint fundraising regulations.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

PDCC is a local political party committee registered in the state of Rhode Island.¹ The Raimondo Committee is the state candidate committee for Governor Gina Raimondo's 2018 gubernatorial re-election campaign.² Neither PDCC, nor the Raimondo Committee, is registered with the Commission.

On January 31, 2018, the Respondents entered into a mutual support agreement ("MSA") stating that "Governor Raimondo intends to raise funds for the [PDCC] to support its programs

¹ See Amendment of Organization, Providence Democratic City Committee (Feb. 2, 2017), available at <https://secure.ricampaignfinance.com/RhodeIslandCF/Candidate/FilingAmendmentSelect.aspx?X=T&FilingID=158075&FormName=RICF1>; <http://www.providencedems.com/> (last visited Oct. 5, 2018) (describing PDCC as "the local committee ... of Providence" and "an entity of the Rhode Island Democratic Party").

² See Amendment of Organization, Friends of Gina Raimondo (July 13, 2018), available at <https://secure.ricampaignfinance.com/RhodeIslandCF/Candidate/FilingAmendmentSelect.aspx?X=T&FilingID=169970&FormName=RICF1>.

1 for the 2018 elections to elect Democrats up and down the ballot”³ The MSA states that
2 PDCC and the Raimondo Committee planned to collaborate to develop a budget for a
3 “coordinated campaign” to allow PDCC to raise funds to support Democratic candidates.⁴ Under
4 the MSA, PDCC agreed to open three accounts, including a “federal account to be named
5 Victory 2018 Federal.”⁵

6 To date, neither PDCC nor the Raimondo Committee appears to have reported any funds
7 raised or spent from a “Victory 2018 Federal” account or in connection with a joint fundraising
8 effort between the committees. PDCC’s filings with the State of Rhode Island indicate that
9 PDCC has made disbursements during 2018 only for bank fees, for a total of \$22.⁶ At the time
10 of its most recent report, PDCC reported a cash balance of \$920.⁷

11 The Complaint alleges that the Respondents violated Commission regulations on joint
12 fundraising at 11 C.F.R. § 102.17 because they engaged in a federal joint fundraising effort but
13 failed to (1) establish a fundraising representative, either by establishing a separate political
14 committee to serve as the joint fundraising committee or selecting an additional participating
15 registered political committee, (2) establish a written fundraising agreement, and (3) state an

³ Compl., Ex B.

⁴ *Id.*

⁵ *Id.* (noting, also, that PDCC’s chairman has exclusive authority to spend, transfer, and distribute funds in accounts established under the MSA).

⁶ See 2018 On-Going Quarterly Report (1st), Providence Democratic City Committee (Mar. 5, 2018); 2018 On-Going Quarterly Report (2nd), Providence Democratic City Committee (July 31, 2018); 2018 28 Days Before Primary Report, Providence Democratic City Committee (Aug. 15, 2018); 2018 7 Days Before Primary Report, Providence Democratic City Committee (Sept. 5, 2018); 2018 28 Days Before Election Report, Providence Democratic City Committee (Oct. 9, 2018), all available at <http://ricampaignfinance.com/RIPublic/Filings.aspx>.

⁷ 2018 28 Days Before Election Report, Providence Democratic City Committee (Oct. 9, 2018), available at <http://ricampaignfinance.com/RIPublic/Filings.aspx>. PDCC also has liabilities totaling \$23,544.51, which were accrued before 2018. See *id.*

1 allocation formula providing the percentage of each contribution received that would be
2 distributed to each participant.⁸

3 The Joint Response states that the MSA was not a joint fundraising agreement because it
4 addressed only how the Raimondo Committee would assist PDCC in raising/spending funds to
5 support PDCC's programs, *i.e.*, the Raimondo Committee was not entitled to any proceeds —
6 and "fundraising *for only one entity* is not 'joint fundraising.'"⁹ The Joint Response also asserts
7 that no funds were ever raised pursuant to the MSA.¹⁰

8 B. Legal Analysis

9 The Commission regulation at 11 C.F.R. § 102.17 set forth guidelines for joint
10 fundraising by political committees other than separate segregated funds. These regulations
11 specify that "[p]olitical committees may engage in joint fundraising with other political
12 committees or with unregistered committees or organizations" and set forth procedures for such
13 joint fundraising efforts.¹¹ These regulations, however, only apply to joint fundraising activity
14 involving at least one "political committee," as that term is defined by the Federal Election
15 Campaign Act of 1971, as amended (the "Act").¹²

16 The Act defines a "political committee" as "any committee, club, association or other
17 group of persons which receives contributions aggregating in excess of \$1,000 during a calendar
18 year or which makes expenditures aggregating in excess of \$1,000 during a calendar year" or

⁸ Compl. at 1-3.

⁹ Joint Resp. at 1-2 (May 4, 2018) (emphasis in original).

¹⁰ *Id.* at 3.

¹¹ 11 C.F.R. § 102.17(a)(1)(i).

¹² *See id.*

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1 "any local committee of a political party which receives contributions aggregating in excess of
2 \$5,000 during a calendar year, or makes payments exempted from the definition of contribution
3 or expenditure . . . aggregating in excess of \$5,000 during a calendar year, or makes
4 contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures
5 aggregating in excess of \$1,000 during a calendar year."¹³ In *Buckley v. Valeo*, the Supreme
6 Court held that defining political committee status "only in terms of the annual amount of
7 'contributions' and 'expenditures'" might be overbroad, reaching "groups engaged purely in
8 issue discussion."¹⁴ To cure that infirmity, the Court concluded that the term "political
9 committee" "need only encompass organizations that are under the control of a candidate or the
10 major purpose of which is the nomination or election of a candidate."¹⁵ Accordingly, under the
11 statute as thus construed, an organization that is not controlled by a candidate must register as a
12 political committee only if it (1) crosses the relevant statutory monetary threshold, and (2) has as
13 its "major purpose" the nomination or election of federal candidates.

14 Neither PDCC nor the Raimondo Committee has registered with the Commission as a
15 political committee and the available information does not support a conclusion that either
16 Respondent is a political committee. The Raimondo Committee's major purpose appears to be
17 the election of Raimondo to state, not federal, office. And PDCC's filings with the state of
18 Rhode Island do not provide evidence that PDCC has triggered the Act's monetary threshold for
19 political committee status.

¹³ 52 U.S.C. § 30101(4)(A), (C); *see also id.* at § 30101(8), (9) (defining "contribution" and "expenditure," respectively).

¹⁴ *Buckley v. Valeo*, 424 U.S. 1, 79 (1976).

¹⁵ *Id.*

1 Moreover, there is no indication that the MSA has altered the status of either Respondent
2 such that one or both of them is now a political committee. Specifically, the Commission has no
3 information that Respondents solicited or received federal funds pursuant to the MSA, to the
4 "Federal" account or otherwise, and nothing contradicts Respondents' assertions that they did
5 not engage in any fundraising pursuant to the MSA.¹⁶

6 In sum, there is no basis for concluding that the Respondents engaged in joint fundraising
7 activity that is within the scope of 11 C.F.R. § 102.17. The Commission therefore finds no
8 reason to believe that the Respondents violated 11 C.F.R. § 102.17.

¹⁶ See Joint Resp. at 1-2.

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